

REFERENCE TITLE: general revenues; budget reconciliation

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2865

Introduced by
Representative Robson (with permission of committee on Rules)

AN ACT

AMENDING SECTION 43-206, ARIZONA REVISED STATUTES; REPEALING LAWS 2006,
CHAPTER 351, SECTION 14; RELATING TO GENERAL REVENUES BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 43-206, Arizona Revised Statutes, is amended to read:

43-206. Urban revenue sharing fund; allocation; distribution

A. There is established an urban revenue sharing fund. ~~For fiscal year 2000-2001 and fiscal year 2001-2002, the urban revenue sharing fund shall consist of an amount equal to fifteen per cent of the net proceeds of the state income taxes for fiscal year 1998-1999 and 1999-2000, respectively. For fiscal years 2002-2003 and 2003-2004, the fund shall consist of an amount equal to fifteen per cent of the amount of monies transferred pursuant to law in fiscal year 2000-2001 and 2001-2002, respectively, from the budget stabilization fund to the tax refund account of the state general fund plus fourteen and eight-tenths per cent of the net proceeds of the state income taxes, not including any amounts transferred from the budget stabilization fund to the tax refund account, for fiscal year 2000-2001 and 2001-2002, respectively. For fiscal year 2004-2005 and each fiscal year thereafter,~~ The fund shall consist of an amount equal to fifteen per cent of the net proceeds of the state income taxes for the fiscal year two years preceding the current fiscal year. The fund shall be distributed to incorporated cities and towns as provided in this section, **EXCEPT THAT A CITY OR TOWN SHALL RECEIVE AT LEAST AN AMOUNT EQUAL TO WHAT A CITY OR TOWN WITH A POPULATION OF FIFTEEN HUNDRED OR MORE PERSONS WOULD RECEIVE.** The transfer of net proceeds prescribed by section 49-282, subsection B does not affect the calculation of net proceeds prescribed by this subsection.

B. Each city or town shall share in the urban revenue sharing fund in the proportion that the population of each bears to the population of all. Except as provided by sections 42-5033 and 42-5033.01, the population of a city or town as determined by the most recent United States decennial census plus any revisions to the decennial census certified by the United States bureau of the census shall be used as the basis for apportioning monies pursuant to this subsection.

C. The treasurer, upon instruction from the department, shall transmit, no later than the tenth day of each month, to each city or town an amount equal to one-twelfth of that city's or town's total entitlement for the current fiscal year from the urban revenue sharing fund as determined by the department.

D. A newly incorporated city or town shall share in the urban revenue sharing fund beginning the first month of the first full fiscal year following incorporation.

E. On receipt of a certificate of default from the greater Arizona development authority pursuant to section 41-1554.06 or 41-1554.07, the state treasurer, to the extent not otherwise expressly prohibited by law, shall withhold from the next succeeding distribution of monies pursuant to this section due to the city or town the amount specified in the certificate of

1 default and immediately deposit the amount withheld in the greater Arizona
2 development authority revolving fund. The state treasurer shall continue to
3 withhold and deposit the monies until the authority certifies to the state
4 treasurer that the default has been cured. In no event shall the state
5 treasurer withhold any amount that is necessary, as certified by the
6 defaulting political subdivision to the state treasurer and the authority, to
7 make any required deposits then due for the payment of principal and interest
8 on bonds of the political subdivision that were issued prior to the date of
9 the loan repayment agreement or bonds and that have been secured by a pledge
10 of distributions made pursuant to this section.

11 Sec. 2. Repeal

12 Laws 2006, chapter 351, section 14 is repealed.

13 Sec. 3. Lottery deposits

14 A. Notwithstanding section 5-505, subsection B, Arizona Revised
15 Statutes, for fiscal year 2008-2009, at least 31.6 per cent of the total
16 annual revenues accruing from the sale of multistate lottery tickets shall be
17 deposited in the state lottery fund established by section 5-521, Arizona
18 Revised Statutes, to be used as prescribed in section 5-522, Arizona Revised
19 Statutes, including deposits to the state general fund pursuant to section
20 5-522, subsection F, Arizona Revised Statutes.

21 B. Notwithstanding section 5-522, subsection F, Arizona Revised
22 Statutes, if the state lottery director determines that monies available to
23 the state general fund from the sale of multistate lottery games may not
24 equal forty-three million dollars in fiscal year 2008-2009, the director
25 shall not authorize deposits to the local transportation assistance fund
26 pursuant to section 5-522, subsection A, paragraph 3, Arizona Revised
27 Statutes, until the deposits to the state general fund from the sale of
28 multistate lottery games equal forty-three million dollars in fiscal year
29 2008-2009. The local transportation assistance fund deposit pursuant to
30 section 5-522, subsection A, paragraph 3, Arizona Revised Statutes, shall be
31 reduced dollar for dollar by the amount that the state general fund deposit
32 pursuant to this subsection exceeds thirty-one million dollars.

33 Sec. 4. Department of public safety; highway funds; limitation

34 Notwithstanding sections 28-6537 and 28-6993, Arizona Revised Statutes,
35 the statutory caps limiting the level of highway user revenue fund monies and
36 state highway fund monies available to fund department of public safety
37 highway patrol costs are suspended for fiscal year 2008-2009.

38 Sec. 5. State and county tax amnesty; monthly report;
39 definitions

40 A. Notwithstanding title 42, chapter 1, article 3, Arizona Revised
41 Statutes, the director of the department of revenue shall establish a tax
42 amnesty process as provided by this section.

43 B. If a taxpayer complies with the requirements of this section by
44 applying to the department for amnesty during the amnesty period and

1 complying with the applicable tax requirements in the time and manner
2 prescribed by this section, the director shall abate or waive all or part of
3 the civil penalties and impose interest at a reduced rate for tax liabilities
4 that have been or could be assessed or imposed for any taxable period during
5 the applicable liability period without the need for the taxpayer to show
6 reasonable cause or the absence of wilful neglect. For the purposes of this
7 subsection, "liability period" means:

8 1. For taxpayers filing annually, any taxable period beginning from
9 and after December 31, 2001 and ending before January 1, 2007.

10 2. For taxpayers having a 52-53 week tax year, any taxable period
11 beginning from and after December 25, 2002 and ending before January 15,
12 2007.

13 3. For all other taxpayers, any taxable period beginning from and
14 after December 31, 2001 and ending before January 1, 2008.

15 C. The director may grant amnesty only for the taxable periods and tax
16 liabilities identified in the application and only if the taxpayer satisfies
17 all of the amnesty conditions and requirements prescribed by this section.

18 D. To qualify for amnesty, the taxpayer must:

19 1. Submit a complete and correct application as provided by subsection
20 F of this section during the amnesty period.

21 2. Pay the tax, plus any interest due pursuant to this section, either
22 with the application or in installments as follows:

23 (a) At least one-third of the total amount due must be paid on or
24 before October 31, 2008.

25 (b) The balance due must be paid in full on or before May 1, 2009.

26 E. A taxpayer does not qualify for amnesty under this section if:

27 1. An audit determination has become final with respect to the taxable
28 period for which amnesty is sought.

29 2. The taxpayer is a party to any criminal investigation or to any
30 criminal administrative proceeding or criminal litigation that is pending on
31 September 1, 2008 in any court of the United States or of this state for
32 failure to file or failure to pay, or for fraud with respect to, any tax
33 imposed by any law of this state and required to be collected by the
34 department.

35 3. The taxpayer has been the subject of a past tax-related criminal
36 investigation, indictment or prosecution if the investigation, indictment or
37 prosecution resulted in a conviction, a guilty plea or a plea of no contest.

38 4. The taxpayer has been convicted of a crime relating to any period
39 or assessment of a tax that is the basis of the penalty or interest with
40 respect to which amnesty is sought.

41 5. The taxpayer is a party to a closing agreement with the department
42 for the tax periods included in the amnesty application.

1 F. An application for amnesty:

2 1. Must be on an application form furnished by the department that
3 requires the applicant to identify the tax, the qualifying taxable period and
4 the tax liability for which amnesty is sought and to furnish other
5 information prescribed by the director. The taxpayer shall include any
6 returns and reports, including amended returns and reports, for the tax and
7 taxable periods. Any return or report filed under this section is subject to
8 verification as provided by law. A taxpayer who has insufficient information
9 to file a full income tax return may file a gross income return and compute
10 the tax pursuant to established rate brackets based on average tax rates for
11 the applicable taxable years.

12 2. Must be filed with the department as prescribed by the director
13 during the amnesty period.

14 G. An application for amnesty constitutes an express and absolute
15 waiver of all administrative and judicial rights of appeal that have not run
16 or otherwise expired as of the date of application. The state board of tax
17 appeals and any court shall dismiss each such action or proceeding before
18 that body on receiving a notification from the director that amnesty has been
19 granted for the taxable period. If the audit determination is not final, the
20 taxpayer must withdraw from the proceeding or litigation before amnesty is
21 granted.

22 H. On reviewing the application and determining compliance with the
23 requirements of the amnesty program under this section:

24 1. The director shall notify the taxpayer regarding the application
25 for amnesty, waiving or abating the civil penalties and imposing a reduced
26 interest rate for tax liabilities that were or could have been assessed for
27 the taxable periods covered by the application.

28 2. No administrative, civil or criminal action may be brought for
29 failure to comply with the tax requirements for the taxable periods covered
30 by the application.

31 I. A grant of amnesty under this section does not entitle any affected
32 taxpayer or other person to a refund or credit of any amount previously paid.

33 J. The director shall deny or revoke the amnesty of a person who files
34 a false or fraudulent application, return or report for purposes of this
35 section, or otherwise attempts to defeat or evade a tax through the amnesty
36 program. If a person who applies for amnesty fails to pay all amounts due as
37 provided by this section, any amnesty granted pursuant to this section is
38 void.

39 K. The director may:

40 1. Do all things necessary to provide for the timely implementation of
41 this section.

42 2. Adopt emergency rules pursuant to section 41-1026, Arizona Revised
43 Statutes, as necessary to administer this section.

1 L. The tax revenues collected pursuant to amnesty payments shall be
2 distributed by the department as provided by law on or after March 1, 2009
3 but before June 1, 2009.

4 M. Beginning November 15, 2008 through June 15, 2009, the department
5 shall submit a cumulative monthly report to the governor, the speaker of the
6 house of representatives and the president of the senate. The report shall
7 include:

8 1. The number of taxpayers that have applied for amnesty under this
9 section.

10 2. The number of taxpayers that have been granted amnesty.

11 3. The amount of revenue received from taxpayers for amnesty periods.

12 4. The amount of outstanding liability from taxpayers that have begun
13 paying.

14 N. For the purposes of this section:

15 1. "Amnesty period" means September 1, 2008 through October 31, 2008.

16 2. "Tax" means any tax administered or collected by the department of
17 revenue on behalf of this state or a county except estate tax and ad valorem
18 property taxes.

19 3. "Tax liability" includes any payment of estimated tax, withholding
20 tax, interest and penalties required by law.

21 4. "Tax requirement" means:

22 (a) Timely filing a complete and correct tax return or report required
23 by law.

24 (b) Timely paying a tax liability.

25 Sec. 6. Business reengineering/integrated tax system contract
26 extension; retroactivity

27 A. Notwithstanding any other law, before executing any extension or
28 modification of the current business reengineering/integrated tax system
29 contract with a fiscal impact that increases the contractor's share of
30 gain-sharing proceeds from state revenues during fiscal year 2008-2009, the
31 department of revenue shall submit the proposed changes to the joint
32 legislative budget committee for its review.

33 B. This section is effective retroactively to from and after June 30,
34 2008.

35 Sec. 7. State real estate department; fee adjustment;
36 suspension; retroactivity

37 A. Notwithstanding section 32-2103, subsection B, Arizona Revised
38 Statutes, the state real estate commissioner shall not revise fees in fiscal
39 year 2008-2009 for the purposes of meeting the requirement to recover at
40 least ninety-five per cent but not more than one hundred ten per cent of the
41 state real estate department's appropriated budget.

42 B. This section is effective retroactively to from and after June 30,
43 2008.

1 Sec. 8. Delayed repeal

2 Section 5 of this act, relating to tax amnesty, is repealed from and
3 after June 30, 2009.

4 Sec. 9. Requirements for enactment: two-thirds vote

5 Pursuant to article IX, section 22, Constitution of Arizona, this act
6 is effective only on the affirmative vote of at least two-thirds of the
7 members of each house of the legislature and is effective immediately on the
8 signature of the governor or, if the governor vetoes this act, on the
9 subsequent affirmative vote of at least three-fourths of the members of each
10 house of the legislature.